U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

DATE: OCT 15 2014 OFFICE: NEBRASKA SERVICE CENTER FILE: [redacted]

IN RE: PETITIONER: [redacted]
BENEFICIARY:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition on April 14, 2014. The petitioner, who is also the beneficiary, appealed the decision to the Administrative Appeals Office (AAO) on May 16, 2014. The appeal will be dismissed.

According to the petition and accompanying documents the petitioner filed on June 20, 2013, the petitioner seeks classification as an alien of extraordinary ability in the arts, as an actress in film and television, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). The director determined that the petitioner has not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. *See* section § 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien, as initial evidence, can present evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i)-(x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, along with her Form I-290B, Notice of Appeal and Motion, the petitioner files additional supporting documents and a two-page appellate statement entitled "Attachment to Form I-290B." In part 3 of her Form I-290B, she notes that "I am filing an appeal to the AAO. My brief and/or additional evidence will be submitted to the AAO within 30 calendar days of filing the appeal." As of this date, more than four months later, we have received no additional evidence or a brief. We will adjudicate the appeal based on documents in the record, including those filed along with her Form I-290B. The petitioner asserts that she meets the criteria under the regulations at 8 C.F.R. § 204.5(h)(3) (ii), (iii), (v), (viii) and (ix). For the reasons discussed below, the petitioner has not established her eligibility for the exclusive classification sought. Specifically, the petitioner has not submitted qualifying evidence under at least three of the ten regulatory criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x). As such, the petitioner has not demonstrated that she is one of the small percentage who are at the very top in the field of endeavor, and that she has sustained national or international acclaim. *See* 8 C.F.R. §§ 204.5(h)(2), (3). Accordingly, we will dismiss the petitioner's appeal.

I. THE LAW

Section 203(b) of the Act states, in pertinent part, that:

1. Priority workers. – Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. – An alien is described in this subparagraph if –

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

United States Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through initial evidence of a one-time achievement, that is a major, internationally recognized award, or through the submission of qualifying evidence under at least three of the ten categories of evidence listed under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the Ninth Circuit reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld our decision to deny the petition, the court took issue with our evaluation of the evidence submitted to meet a given evidentiary criterion.[1] With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Kazarian*, 596 F.3d at 1121-22.

The court stated that our evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Kazarian*, 596 F.3d at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

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[1] Specifically, the court stated that we had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and (vi).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In this case, the petitioner has not satisfied the antecedent regulatory requirement of presenting at least three types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x), and has not demonstrated that she is one of the small percentage who are at the very top in the field of endeavor, or that she has achieved sustained national or international acclaim. *See* 8 C.F.R. §§ 204.5(h) (2), (3).

II. ANALYSIS

A. Translation

The petitioner has submitted a number of foreign language documents in support of this petition. The petitioner, however, has not submitted translations that meet the regulatory requirements under 8 C.F.R. 103.2(b)(3), which provides: "Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English."

The petitioner initially submitted the foreign language documents and translations when she filed her petition on June 20, 2013. In this submission the petitioner did not provide any information relating to the identity of the translator or a certification that meets the regulatory requirements under 8 C.F.R. 103.2(b)(3). In his request for evidence (RFE), the director notified the petitioner that the translator of the foreign language documents must certify that:

- The translations are accurate and complete, and
- The translator is competent to translate from the foreign language into English.

In response to the director's RFE, the petitioner resubmitted some of the foreign language documents initially filed and submitted additional foreign language documents. The petitioner included a "Certification by Translator" with the accompanying translations, which indicates that the petitioner translated the foreign language documents. The "Certificate by Translator," however, does not meet the regulatory requirements under 8 C.F.R. 103.2(b)(3) because it does not certify that the translations are complete. In fact, it is evident from a comparison between a 2013 compensation document and its English translation that the translation is not complete. The foreign language document contains a full page of compensation information, whereas the translation contains a few lines of compensation information. Translations that are incomplete, or that only include information that the petitioner has decided to be relevant, do not meet the regulatory requirements under 8 C.F.R. 103.2(b)(3).

Accordingly, the foreign language documents and their translations in the record have no probative value. In the alternative, even if we were to accept and consider the deficient translations, we would dismiss this appeal for the reasons discussed below.

B. Evidentiary Criteria[2]

Under the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner, as initial evidence, may present evidence of a one-time achievement that is a major, internationally recognized award. In this case, the petitioner has not asserted or shown through her evidence that she is the recipient of a major, internationally recognized award at a level similar to that of the Nobel Prize. As such, as initial evidence, the petitioner must present at least three of the ten types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements.

> *Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

The director concluded that the petitioner did not meet this criterion. On appeal, the petitioner has not specifically challenged the director's conclusion. Accordingly, the petitioner has abandoned this issue, as she did not timely raise it on appeal. *Sepulveda v. United States Att'y Gen.*, 401 F.3d 1226, 1228 n.2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, 9 (E.D.N.Y. Sept. 30, 2011) (the United States District Court found the plaintiff's claims to be abandoned as he failed to raise them on appeal).

> *Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.* 8 C.F.R. § 204.5(h)(3)(ii).

On appeal, the petitioner asserts that she meets this criterion, because she is a member of the which she claims to be "the most distinguished performers union in the world. Their members are experienced professionals who require the utmost standards of working conditions, compensation and benefits." The petitioner has not shown she meets this criterion.

First, the petitioner has not shown that her membership in constitutes her membership in a qualifying association. According to a letter from the petitioner joined the organization in May 2013. According to its online printouts, "represents more than 160,000 actors, announcers, broadcasters, journalists, dancers, DJs, news writers, news editors, program hosts, puppeteers, recording artists, singers, stunt performers, voiceover artists and other media professionals." The printouts further provide that a performer becomes eligible to join by showing (1) proof of employment, or (2) employment under an affiliated performers' union. These printouts and other evidence in the record are insufficient to show that requires "outstanding achievements of [its] members," as required under the criterion. Receiving and completing or affiliated performers' union employment,

[2] The petitioner does not claim that she meets the regulatory categories of evidence not discussed in this decision.

which is the membership requirement, is insufficient to establish that requires "outstanding achievements" from its members. Notably, the materials the petitioner submitted state that membership "is a significant rite of passage for every working professional in the media and entertainment industry." The materials also "urge" performers to consider joining when they "are offered [their] first principal union job." The petitioner has not shown that being employed in her occupation constitutes an outstanding achievement in that occupation, even if it is a competitive one. In addition, the petitioner has presented insufficient evidence showing that the "outstanding achievements" are "judged by recognized national or international experts," as required by the plain language of the criterion.

The record also includes evidence of the petitioner's membership in the . According to an undated and unsigned letter from , the petitioner is a member of , an organization that "specializes in musical talent." The petitioner has provided insufficient evidence relating to how these organizations select their members or the requirements for membership in is open to "any artist, regardless of their nationality or place of residence" with at least one artistic commercially marketed performance that the artist contracts with to manage. Accordingly, the petitioner has not shown that her membership in any of these three organizations is qualifying under the criterion.

Accordingly, the petitioner has not presented documentation of her membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(ii).

> *Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

The director concluded that the petitioner met this criterion. The evidence in the record supports this conclusion. The petitioner has submitted a February 24, 2010 article "[the Petitioner] published in and a January 2006 article ' ' published in . These two articles are about the petitioner and relate to her work as an actress. In addition, the petitioner has submitted sufficient evidence showing that both publications constitute major media in Honduras. Accordingly, the petitioner has presented published material about her in professional or major trade publications or other major media, relating to her work in the field for which classification is sought. The petitioner has met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(iii).

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

On appeal, relying primarily on reference letters, the petitioner asserts that she meets this criterion. In her appellate statement, the petitioner points to a May 4, 2014 letter from President of as supporting evidence that the petitioner meets this criterion. On appeal, the petitioner also submits a list of reference letters in the record, including quotes from the reference letters. The petitioner has not shown that she meets this criterion.

First, it is well established that the petitioner must demonstrate eligibility for the visa petition at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). In other words, the petitioner cannot secure a priority date based on the anticipation of future contributions consistent with original contributions of major significance. *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Reg'l Comm'r 1977); *Matter of Izummi*, 22 I&N Dec. 169, 175-76 (Assoc. Comm'r 1998) (adopting *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981) for the proposition that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition.") As such, reference letters that postdate the filing of the petition on June 20, 2013, and discuss the petitioner's accomplishments without specifying that those accomplishments occurred before the filing of the petition do not establish that the petitioner meets this criterion. These letters include the May 4, 2014 letter from Mr. that the petitioner filed on appeal and a number of letters that the petitioner filed in response to the director's RFE.

Second, reference letters that do not explain how what the petitioner did constituted contributions that were both "original" and that were of "major significance in the field" of film and television do not establish that the petitioner meets this criterion. The petitioner has submitted reference letters from individuals who have worked with and/or are familiar with her work. These letters provide general praises and approval of the petitioner's acting abilities and professionalism. For example, an actor, whose letter lacks a certified translation that meets the requirements set forth in 8 C.F.R. 103.2(b)(3), states that the petitioner has "great talent as an actress[,] great willingness to work in a team" and has the "pleasant ability to get on well with people." an acting teacher who taught the petitioner at the , states that the petitioner brought her experience as "an established television professional in Spain . . . as well as her creative talent, her conscientious work ethic, and her drive for excellence to the class, raising the bar for her fellow students." an actress, director and writer, states that the petitioner "is a highly talented actress who is both well liked and well respected by her fellow professionals in the [" of the and the state that the petitioner's "outstanding comedic and dramatic ability stood out in the audition process" and that she is "an artist of outstanding ability and talent." , an actor and director/producer, states that the petitioner "has a plethora of talent, she not only brought truth and intensity to [his] film but also a sincere vulnerability to the character, which is difficult to achieve. She was simply brilliant, full of vigor and was such a gift to [his] team." a television director, states that the petitioner "is an actress with a lot of talent and versatility, intuiti[on], who easily integrated with the team during the shoot," and that she is an

actress who possesses "vast potential." states that the petitioner "has an incredible range, possessing the ability to excel at both dramatic and comedic roles. Her ability to slip into the most complex of characters[']s psyches is inarguably remarkable. [The petitioner] is a very talented actress." and states that he supports the O-1 visa petition on behalf of the petitioner and that the petitioner "has a history of extraordinary achievement in her field of endeavor."[3] The reference letters, although numerous, do not include specific information or evidence on the petitioner's contributions, let alone original contributions of major significance, in the field of film and television. Regardless of the field, the plain language of the phrase "contributions of major significance in the field" requires evidence of an impact beyond one's employer and clients or customers. *See Visinscaia v. Beers*, __ F. Supp. 2d __, 2013 WL 6571822, at *6 (D.D.C. Dec. 16, 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

Vague, solicited letters from colleagues that do not specifically identify contributions or provide specific examples of how those contributions influenced the field are insufficient.[4] *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d at 1115. The opinions of experts in the field are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as this decision has done above, evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). The letters in the record, including those not specifically mentioned above, primarily contain bare assertions of acclaim and vague claims of contributions without specifically identifying contributions and providing specific examples of how those contributions rise to a level consistent with major significance in the field. *See also Visinscaia*, 2013 WL 6571822, at *6 (concluding that USCIS'

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[3] Although some of the letters make references to a nonimmigrant O-1 petition on behalf of the petitioner, the petitioner has not submitted any evidence showing that she has been granted nonimmigrant O-1 status. Regardless, someone with a nonimmigrant O-1 status is not per se eligible for a classification as an alien of extraordinary ability under section 203(b)(1)(A) of the Act. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. Dep't of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co. Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989). Notably, the criteria for an alien of extraordinary ability in the motion picture or television industry are different, and the standard of extraordinary achievement is lower than the standard for the similarly titled immigrant visa. *Compare* 8 C.F.R. § 214.2(o)(2)(ii), (v) with 8 C.F.R. § 204.5(h)(2), (3).

[4] In 2010, the *Kazarian* court reiterated that our conclusion that "letters from physics professors attesting to [the alien's] contributions in the field" were insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122.

decision to give limited weight to uncorroborated assertions from practitioners in the field was not arbitrary and capricious).

Accordingly, the petitioner has not presented evidence of her original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(v).

> *Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

The director concluded that the petitioner met this criterion. The evidence in the record does not support this decision. We may deny an application or petition that does not comply with the technical requirements of the law even if the director does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. Dep't of Justice*, 381 F.3d 143, 145-46 (3d Cir. 2004) (noting that we conduct appellate review on a *de novo* basis).

The evidence in the record, including the petitioner's curriculum vitae and online printouts from imdb.com, shows that she has acted in films, television shows and off-Broadway plays. According to an undated and unsigned letter from [redacted] the petitioner has appeared "in the highest rated programs in [Honduras], including [redacted] The evidence, however, does not establish that she meets this criterion.

First, the petitioner has submitted a number of Wikipedia articles relating to television channels and television networks. As there are no assurances about the reliability of the content from this open, user-edited internet site, we will not assign evidentiary weight to information from Wikipedia.[5] *See Badasa v. Mukasey*, 540 F.3d 909, 910-11 (8th Cir. 2008).

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[5] Online content from Wikipedia is subject to the following general disclaimer entitled "WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY":

> Wikipedia is an online open-content collaborative encyclopedia; that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information.
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See http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on September 16, 2014, a copy of which is incorporated into the record of proceeding.

Second, the petitioner has not shown that she has performed in either a leading or critical role for television series According to director, the petitioner had a role in In his letter, Mr. does not indicate whether the petitioner had a leading or critical role. According to imdb.com, the petitioner appeared in two episodes of , a television series of over 70 episodes. In his letter, Mr. discusses the petitioner appearing in one episode of The online printouts from imdb.com also indicate that the petitioner appeared in one episode of a television series of at least 80 episodes. The petitioner has not shown that her appearance in a small number of episodes of a television show that ran for numerous episodes is indicative of her role being either leading for or critical to the shows. a creator, director and producer of educational and entertainment television programs, verified that the petitioner had been one of the performers in Although she praises the petitioner's acting abilities and professionalism, she does not provide details relating to the petitioner's role in the two shows or sufficient information showing that the petitioner had either a leading or critical role in the shows. Although the evidence in the record shows that these series have a distinguished reputation, it does not show that the petitioner has performed either a leading or critical role for the series.

Third, the petitioner has submitted letters that include conclusory statements that the petitioner performed a leading or critical role for some of the television shows. These letters that do not provide details about the petitioner's role or show how her role was either leading or critical to the television shows are insufficient to establish that the petitioner meets this criterion. For example, according , an actor in , the petitioner played a "lead role" in an actor in the television series states that the petitioner was "a lead guest actress" in the series. the director for the television show , states that the petitioner played the role Lia in an actor in the television series states that the petitioner played the role of Amanda, a "lead character of the episodes in which she intervened" in , an audiovisual and multimedia producer, states that the petitioner "has worked as a leading principal actor and member of the artistic team in various projects of the " In their letters, the petitioner's references do not specify the number of episodes in which the petitioner appeared for these shows, details relating to the petitioner's role in the shows, or information showing that the petitioner's role was either leading for or critical to the shows. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190). Similarly, USCIS need not accept primarily conclusory assertions. *See 1756, Inc. v. United States Att'y Gen.*, 745 F. Supp. 9, 17 (D.C. Dist. 1990).

Fourth, the petitioner has not shown that her involvement in films, including and her involvement in off-Broadway plays or her involvement in the musical group meets this criterion. Although the petitioner has submitted some evidence showing that she has had a lead role in the films and plays, and that she was a lead member of she has not

provided sufficient evidence relating to the reputation of the films, plays or musical group, or established that they have a distinguished reputation, as required by the plain language of the criterion. The film was selected for the The petitioner has submitted insufficient evidence relating to the event or the selection process that shows that the film's selection into the event is indicative of the film's distinguished reputation.

Finally, the petitioner has submitted evidence of her involvement in other television projects, including The evidence is insufficient to show that these projects have or had a distinguished reputation. Specifically, the evidence submitted to show the reputation of these television programs is from individuals who are/were associated with these programs. Such self-promotional evidence has minimal evidentiary value. *See Braga v. Poulos*, No. CV 06-5105 SJO 10 (C.D. Cal. July 6, 2007), *aff'd*, 317 F. App'x 680 (9th Cir. 2009) (concluding that we did not have to rely on self-promotional assertions on the cover of a magazine as to the magazine's status as major media). The petitioner has not supported the self-promotional evidence with more independent evidence, such as, but not limited to, evidence that the programs won awards for excellence, or independent journalistic coverage or reviews of the programs in nationally circulated publications or major trade publications, establishing that there is consensus among critics and industry experts that the programs had "a distinguished reputation." According Arturo Sosa, an writer and presenter for whose letter lacks a certified translation required under 8 C.F.R. 103.2(b)(3), "these programs had the unconditional support of the target audience, who were the children, youth and adults in [Honduras]. The duration of these productions on air of exceeds ten years." According to , a general director of a television channel that broadcasted the television show the television show had "an assiduous audience" and "great acceptance and high ratings." These letters indicate that the television programs have received high television viewership or ratings, and some have had a long broadcasting duration. The petitioner has not shown that these claims, made by individuals associated with the programs, are sufficient to establish that the programs have a distinguished reputation.

Accordingly, the petitioner has not presented evidence that she has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(viii).

> *Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.* 8 C.F.R. § 204.5(h)(3)(ix).

On appeal, relying on her employment contracts from 2009 and 2005, and an incomplete translation of a 2013 document, the petitioner asserts she meets this criterion. The petitioner has not met this criterion.

First, the 2009 and 2005 employment contracts do not establish that the petitioner meets this criterion. According to a 2009 document, entitled "Observations," between November 10, 2009 and December 15, 2009, the petitioner received €800 per session for her acting performance in [redacted]. According to a second 2009 document, entitled "Employment Contract for Work or Service," between November 4, 2009 and November 17, 2009, the petitioner received €750 per session for her acting performance in the television series [redacted] On appeal, the petitioner submits a 2005 document from the [redacted], showing that between July 9, 2005 and August 15, 2005, the petitioner received €1,000 per accomplished work day for service as a presenter on the program [redacted]

The record also includes an incomplete translation of a 2013 [redacted] document relating to compensation rates. The incomplete translation shows that in 2013, lead actors received €649.45 per session, guest star actors received €463.90 per session, and costar actors received €371.10 per session. This incomplete translation, as discussed above, does not have any evidentiary weight. *See* 8 C.F.R. 103.2(b)(3). Even if we consider this incomplete translation, it does not indicate if the 2013 compensation rates were the minimum rates for union member actors, the average rates for union member actors, or some other figure. As such, the petitioner has not provided sufficient information relating to the listed rates that allows us to compare them with rates in the petitioner's employment contracts. In her appellate statement, the petitioner states that the listed rates in the incomplete translation are "proposed daily rates for actors in her field." The petitioner, however, does not indicate the basis or source of her statement. The incomplete translation does not support her statement. Even if the rates are "proposed rates," this information does not demonstrate what a high salary or significantly high remuneration is in her field.

Moreover, the rates listed in the incomplete translation relate to compensation rates in 2013, whereas the petitioner has submitted documents relating to her compensation rates in 2009 and 2005. On appeal, the petitioner asserts that the "rates for lead roles in a television show for the year 2013 are higher than what they were in the years in which [the petitioner] recorded these shows." The petitioner does not support her assertion with any evidence or documentation. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

Second, conclusory statements that the petitioner meets this criterion are insufficient to establish that she meets this criterion. According to [redacted] who was the petitioner's agent/manager, the petitioner "has been consistently working in TV, Film, Theatre and Television Commercials as an actress" and she "is one of our highest earners and always has been from the commencement of our association." He further states that the petitioner "has been paid well above scale compared to other performers at the top of their field in Spain." Mr. [redacted] does not provide specific information relating to how much the petitioner has earned or how much others in the petitioner's field have earned. As such, he has provided insufficient evidence to support his conclusory assertions or to show that the petitioner meets this criterion. *See Matter of Soffici*, 22 I&N Dec. at 165.

Accordingly, the petitioner has not presented evidence showing that she has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(ix).

C. Summary

We have considered all the evidence in the record and conclude that the petitioner has not satisfied the antecedent regulatory requirement of presenting at least three types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x).

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of the field of endeavor.

Had the petitioner submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor," and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(2) and (3); *see also Kazarian*, 596 F.3d at 1119-20. While we conclude that the evidence is not indicative of a level of expertise consistent with the small percentage at the very top of the field or sustained national or international acclaim, we need not explain that conclusion in a final merits determination.[6] Rather, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of presenting three types of evidence. *Kazarian*, 596 F.3d at 1122.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

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[6] We maintain *de novo* review of all questions of fact and law. *See Soltane v. United States Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, we maintain the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii); *see also* INA §§ 103(a)(1), 204(b); DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).